

# Best Practices for a Legally Compliant Website



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# Mission of Pro Bono Partnership of Atlanta

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To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals.

We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

# Client Criteria

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In order to be a client of Pro Bono Partnership of Atlanta, an organization must:

- Be a 501(c)(3) nonprofit.
- Be located in or serve the greater Atlanta area.
- Serve low-income or disadvantaged individuals.
- Be unable to afford legal services.

Visit our website at [www.pbpatl.org](http://www.pbpatl.org) to apply.

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# Legal Information

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**This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.**

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# Agenda

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1. Website Terms of Use
2. Privacy Policy
3. Copyright (DMCA) Policy
4. Other Considerations



# Website Terms of Use

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## ❖ What are Website Terms of Use?

- ❖ Contract between the nonprofit and the nonprofit's site users.

## ❖ Why Do Nonprofits Need Website Terms of Use?

- Minimizes the nonprofits potential liability to site users.
- Protects the intellectual property included on or accessed through the site.
- Ensures the site is not used in ways that may be harmful, including by prohibiting illegal or undesirable user behavior, such as:
  - using the site for illegal purposes;
  - introducing viruses; and
  - uploading illegal, infringing, or defamatory content.

# Key Principles of Website Terms of Use

- Website terms of use should always state its effective date and address the following principles:
- **Notice.** The terms of use should clearly inform visitors about the services the nonprofit provides and that if the user does not agree to the terms of use, they should not access or use the website.
- **Permitted and Prohibited Use.** The terms of use should clearly inform visitors what they can and cannot do on the nonprofit website or with the nonprofit services.
- **Intellectual Property.** The terms of use should make it clear that the nonprofit owns its content and intellectual property on the website, and that the visitor has no intellectual property rights in or to the nonprofit's content by their access or use of the site.
- **Reference the Privacy Policy.** The terms of use should clearly reference the privacy policy, to put visitors on notice that the nonprofit may have access to and use of their data.
- **Limits of Liability.** The terms of use should include standard liability provisions that limit the nonprofit's liability.



# Website Terms of Use Best Practices

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## ❖ Other Website Terms of Use Best Practices

- Track user consent to the Terms of Use.
- Make sure the links to your Terms of Use are clearly visible on the website.
- Make sure the contact information you include in the Terms of Use is accurate and tracked by someone in your organization.

# Website Privacy Policy



## ❖ What is a Privacy Policy?

- ❖ Describes how the nonprofit collects, stores, uses, and discloses a site user's personal information.

## ❖ Why do Nonprofits Need a Privacy Policy?

- ❖ Privacy policies are required by a host of international and U.S. state law to put users on notice about how you collect and use their data.

# Key Principles of the Privacy Policy

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- A website privacy policy should always state its effective date and address the following privacy principles:
- **Notice.** The policy should clearly inform visitors about the types of personal information collected and describe in detail how it is collected, used, and shared.
- **Choice and consent.** The policy should provide visitors with choices regarding how their personal information is used or disclosed and that the nonprofit may need to obtain consent if it is used for purposes unrelated to the nonprofit's interaction with the visitor.
- **Consumer rights.** The policy should describe how users can exercise any personal information rights they may have, such as requests to access, correct, and delete personal information the site collects, or to stop any sales of their personal information to third parties.
- **Security.** The policy should describe the steps taken by the site operator to protect personal information.

# Privacy Policy Best Practices

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## ❖ Other Privacy Policy Best Practices

- Track user consent to the Privacy Policy.
- Make sure the links to your Privacy Policy are clearly visible on the website.
- Make sure the contact information you include in the Privacy Policy is accurate and tracked by someone in your organization.
- If there is any chance your website could be accessed or used by users in the EU, include a Cookie Consent Notice.



# Copyright (DMCA) Policy



## ❖ What is a Copyright (DMCA) Policy?

- ❖ Describes how the nonprofit addresses and prevents copyright infringement in accordance with the Digital Millennium Copyright Act (DMCA).

## ❖ Why do Nonprofits Need a Copyright (DMCA Policy)?

- ❖ Provides a safe harbor for the nonprofit from the DMCA.

- ❖ Minimizes the nonprofits exposure and liability for potential infringement claims that are caused by the actions of website visitors.

# Key Principles of a Copyright Policy

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- In order to qualify for a safe harbor, the nonprofit must keep the following principles in mind:
- **Notice.** The copyright policy should notify users that the policy provides for termination in appropriate circumstances of the accounts of subscribers or account holders who are repeat infringers.
- **Prevention.** The copyright policy should make it clear that users may not interfere with certain technical measures that copyright owners use to identify or protect copyrighted works.
- **No Financial Benefit.** The nonprofit must not receive any financial benefit directly attributable to any infringing activity of website visitors.
- **Removal.** The nonprofit must expeditiously remove or disable access to any infringing material upon proper notification or otherwise on becoming aware of the infringement.
- **Designation.** The nonprofit must designate an agent to receive notices of copyright infringement claims from copyright owners (also known as DMCA takedown notices) and register the agent's name and contact information with the US Copyright Office.

# Other Considerations

## ❖ Americans with Disabilities Act



- The ADA applies to all goods or services offered by “public accommodations,” included those offered on websites.
- What constitutes a “public accommodation” has been construed differently in various courts, but courts have generally held that the ADA applies to websites open to and intended for the general public.

## ❖ E-Commerce Websites



- Nonprofits engaging in e-commerce on their websites may be subject to additional laws and regulatory requirements.

Questions?



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